



CITY OF TOPEKA

CITY COUNCIL COMMITTEE
MEETING MINUTES

PUBLIC HEALTH AND SAFETY COMMITTEE

CITY COUNCIL
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Date: October 14, 2019

Time: 3:30 p.m.

Location: First Floor Conference Room, Holliday Building, 620 Madison

Committee members present: Sylvia Ortiz (Chair), Councilmembers Karen Hiller

City staff present: Luther Ganieany (Police Legal Advisor), Sasha Haehn (Director, Neighborhood Relations), Brent Trout (City Manager)

Call to Order

Councilmember Ortiz called the meeting to order at 3:31pm. Committee members introduced themselves. Councilmember Ortiz announced that former Councilmember Aaron Mays is no longer on the committee, as he has accepted the position of District 3's Shawnee County Commissioner.

Approve September 16th, 2019 Meeting Minutes

Councilmember Hiller made a motion to approve the September 16th minutes. The motion was approved 2:0.

Motion to accept, reject, or amend a currently proposed public camping ordinance

- Councilwoman Hiller asked if the follow up from the last committee meeting as well as additional questions in an email she sent to City Attorney Lisa Robertson was provided. Mr. Ganieany replied, stating City Attorney Robertson had sent information from Utilities Deputy Director Braxton Copley. An attachment to that email included a map that outlined where the flood control works were.

Councilmember Hiller also noted that nothing had been changed in the ordinance in regards to Chairwoman Ortiz's concern about store fronts. Councilmember Hiller continued and asked if we could be advised about people camping or sleeping in Downtown and NOTO, as well. Would it be possible to register those districts both private and public?

Mr. Ganieany stated when looking at a partial ban, we need to leave open alternative places for people to camp. The places where you want to ban camping can be anywhere, but staff needs confirmation on where you would like those places to be.

Councilmember Hiller continued asking for clarification in the case of Downtown and NOTO, a combination of both private and public property. Asking in terms of the private property owners, is it possible for the associations such as NOTO and DTI to make a request as a unit to ban camping in those areas? Confirming that we cannot ban camping on private property, we can only request permission from the owners for people to camp there.

Mr. Ganieany confirmed yes, that was possible. For private property, there is always the trespassing law, where an owner could contact TPD and report a trespassing case. Mr. Ganieany continued stating that it can be difficult to determine who owns undeveloped property, essentially fields; downtown is easier because you more than likely have someone right there who officers can speak to.

Councilmember Hiller asked if the City chose to do a partial ban on any public property, say Downtown business district in combination with the trespassing on private property, would that include store fronts, doorways, loading docks etc. ?

Mr. Ganieany replied that if the decision was to do a combination of banning on public property and banning camping within 10 feet of doorway or loading dock, then the rest of it could basically be addressed as a trespassing issue or through the application of other City ordinances.

Councilmember Ortiz asked what is currently on the list on banned places for camping.

Mr. Ganieany confirmed the list includes bus shelters, bridges, overpasses and levees (flood control). He added that the ordinance could be written to include 10 feet from a doorway or loading dock to the list and Councilmember Hiller's request to add zones such as NOTO and Downtown.

Councilmember Ortiz requested that the doorways specify both front and back of doorways and include stairwells as well.

Mr. Ganieany confirmed that we would do that as well and include fire escapes.

Councilmember Hiller requested at the next meeting staff be present to explain the levee maps from utilities, what it covers and what it doesn't.

Councilmember Ortiz asked if the partial ban would cover City easements.

Mr. Ganieany said it would not. The presumption would be if it is not listed, then it is allowed; although certain City easements are already covered by other ordinances, such as the prohibition against streets and sidewalks being blocked or obstructed.

There is a small narrow strip of land between the sidewalk and where the levee begins, which is an unusual situation – this would not be covered.

Councilmember Hiller said another concern that was raised originally, was people camping along the trails. Is there a reason why this wasn't included?

Mr. Ganieany said that certain areas could be selected where the City has a governmental interest in protecting infrastructure; provided the City is able to document and prove this governmental interest in case of litigation. Mr. Ganieany reinforced that this is a partial ban, and if the City includes every area where people can camp, we are back to a full ban and not giving people an alternative of where they can camp.

Councilmember Hiller said she would be interested in hearing a proposal or thoughts from guests at the last meeting on the partial ban and comments from the people here today.

- Carrie Higgins, Chair for the Homeless Task Force, provided an update, providing that Shelter + Care has had no changes for Dr. Burton's people and there is a standard two month wait list due to funding. The next Homeless Task Force meeting will be November 13th at 1:00pm at Avondale East.
- *Public Comment:*
Dr. Burton stated he was confused about the comment that the riverfront would still be open to camping. If it bans camping on private property, that means everyone who is in front of the grain elevators are all on private property. There are about 15-20 people in that spot. Where would they go then? They can't camp right by the river. It doesn't seem wise to put a big group of people by a river that can flood. The thing about banning camping on private property is that it would force people onto City property or would drive them so far away they wouldn't be able to get City services.

Councilmember Hiller replied that (the concern by Dr. Burton) is the conversation that needs to be had. Councilmember Hiller proposed the hypothetical scenario that the ordinance bans between the bridges. That would mean the proposed language about being on private property the campers would need to get permission. Councilmember inquired with Dr. Burton as to his thoughts of being to obtain permission from property owners.

Dr. Burton said if you did that, the area is not large enough to house the people you have on the streets. He felt sure there are other City properties, but was not sure where the unsheltered individuals would go. Dr. Burton expressed an appreciation for the bridge need, however inquired about how it would work. Would they get tagged and have 24 hours to move their stuff?

Mr. Ganieany answered the camping piece of it the person would have to move immediately, giving them 24 hours to move their stuff or the City would move it for them.

Dr. Burton inquired if someone was found under the bridge at 2:00am, would they have to move immediately?

Mr. Ganieany said yes.

Dr. Burton continued by stating when an individual has nothing else and it's snowing or raining out, they choose to go under a bridge because there is no place else to go. It would be damaging to their way of life. They can't go anywhere. It's snowing and raining and they will have to go somewhere else. Dr. Burton stated he did not see a positive outcome for this because their (the unsheltered individual's) mental health conditions are already so severe. The private property issue is very upsetting and the bridges; it would be devastating to the nomad homeless that survive that way.

Councilmember Hiller stated she had asked another question in an email that she has not yet received the answer. She wanted to know how unlikely it is to have written permission from property owner. The default we have now is that owners are allowing it by not saying anything. *[Councilmember Hiller questioned if creating a database with a list from Owners who do not want people to camp on their property, would work?]*

Mr. Ganieany said maintaining a list is not generally an effective solution for TPD to rely on. He said that using no trespassing signs would be preferable to using a list.

Councilmember Ortiz presented a scenario: Let's say I am a property owner, and I am okay with it (camping on private property) and it got out of control. My neighbors have nothing to stand on. They (homeless individuals) have stolen things out of the neighbor's yard and water. At the end of the day, you (property owner) have trash and debris and it has become a code compliance issue. They (the homeless individuals) have left their stuff there, Code comes by and they go after the property owner. That is my concern. If the owners put up "private property" signs, you (Mr. Ganieany) are saying the police can ask them to leave and they have to.

Councilmember Ortiz explained that the Santa Fe Railroad is tired of people camping on their property and want to start cracking down on it. She would like to see people get into shelters and how the City can help them.

Councilmember Hiller stated she would like to recruit a 3rd person to join the committee with Mays absence.

Property Maintenance Discussion: Current Policies & Procedures

- Councilmember Ortiz mentioned there was a list that was curtailed down from the August 12th meeting. The Council Assistant sent a list on the 9th of October. Councilmember Hiller read that e-mail.
- *[Councilmember Hiller provided Councilmember Ortiz and Staff with a document to assist with framing conversations to identify the goals for each area.]*
Councilmember Hiller said she likes the way the sections had been divided out on what the committee would focus on. There was an overview from the Power Point presentation to include: policies/administration and then went to sanitation, weeds and that is how the committee voted to do it. Councilmember Hiller continued by stating it would be helpful for us, first overall, to get focused on why we are here. And then work with Staff to find what the goals are for the city with regard to Code are and asking
 - Why are we doing this?
 - What strategies do we propose to get there?
 - What are we doing now?
 - And what is our goal in 5 and 10 years?
 From there, frame the whole conversation on what the community wants for the city with regard to Code Enforcement. Each category would have goals specific to that area, as well as a discussion/explanation matching each policy to that area and reviewing what Staff is doing to approach those areas.
 - What's the administration? (There have been issues back and forth about procedures and interpretations of Code)
 - Are there partnerships internally, or other organizations within the community?
 - Are there community initiatives that exist or that could help us advance that agenda?
 - Finally, how do we measure success?

Councilmember Ortiz would like to get idea of what the Staff and committee is doing and why it is being done.

Sasha Haehn, Director of Neighborhood Relations, stated she was not clear on what the committee was wanting from staff. To answer the question about what the committee wants from Code Enforcement, is generally a policy discussion. The committee can choose where to begin. Ms. Haehn stated she was not clear on the preference of the committee for a starting point.

Councilmember Ortiz stated she believed the topics were outlined in the August 12th meeting about what was wanted from Staff, and it is in the August 12th meeting minutes.

Councilmember Hiller commented that she believed the committee had decided to first look at the notices before discussing any of the subject material and stated that was fine with her.

Councilmember Hiller provided city beautification as an example and noted if the Property Maintenance Division is the only group working on that goal, then there needs to be a review of the decisions regarding enforcement as well as reviewing policies or procedures; so at the end, the city looks nice. Councilmember Hiller continued, there has been Legal opinion to not do shrubs and trees. There has been an Administrative decision to not write up abatements if there is not a capacity to do them. The result is that there are neighborhoods all over town that look overgrown. This committee is not just talking about how fast the City is doing it, but we are also talking about the priority that people are taking care of the property themselves. It will drive how the City deploys staff, money, etc.

Councilmember Hiller continued by noting when a Police Officer goes out and observes a pothole in a street or car in backyard, currently we have TPD issue a service request ticket. Do the Code Officers automatically call those in also, or do they say "That's not my job"? The solutions can be policy, administrative as well as a community initiative. Councilmember Hiller would like to lay those things out so when the committee talks about it, there is something to refer to.

Councilmember Ortiz stated the committee will review what is currently available and go from there.

Councilmember Hiller commented that there are many people from various backgrounds who have opinions on this topic. She suggested posting the topics for upcoming meetings far enough in advance to allow those individuals to attend the meeting and clarify any topics they feel may need to have more information. She noted that if there is an agreement on what the priorities and standards are, then that would help focus the discussion.

City Manager Trout noted that if the City changed how business was done, then that will impact the budget. Mr. Trout stated Municipal Court Judge Dougherty-Bichsel says 1/3 of people that come to court take care of what they are supposed to before they arrive in front of her. Many other residents promise to take care of Code Compliance issues and the rest, about another 1/3, ignore the notices. Mr. Trout stated that he understood the things being brought up by the committee. He is in agreement that a discussion to find out what the best level of action is should take place to determine the impact it is going to have.

Mr. Trout also mentioned Staff had recently conducted an RPI on Property Maintenance and a large portion of the process has been completed to be as efficient as it can be with all factors considered. For Staff, understanding more of what the committee wants can help us. Mr. Trout inquired if the committee would want to look at the issues earlier, before the RPI, or after the RPI process has been completed.

Councilmember Ortiz noted the conversation stemmed from past issues when stacks of cases were sitting, untouched, for long periods of time.

Mr. Trout stated dockets could be added, however with that comes other expenses. Staff needs to understand who the committee would deem to be a level of priority required to go to court, and the suggestions to get to that point.

Councilmember Hiller said she was first involved in with Code Compliance in the mid-1970's and at that time, the town looked pretty good. The Landlord/Tenant Act had recently passed, and there was a lot of work being done to keep rental properties up, and cases rarely went to court. The problem began to go downhill when cases became choked to go to court, and there wasn't an end-of-the-line for non-compliance, so it became more difficult to get people to voluntarily comply. Councilmember Hiller inquired if there was a need to take cases as far as court? Is there a way to change the culture?

Mr. Trout expressed concern with the ability to change the culture. However, if the committee is concerned about the process, then Staff will need to look at it and evaluate it.

Other Items before the Committee

None.

Adjourn

Chairwoman Ortiz adjourned the meeting at 4:29pm.

Meeting video can be viewed at: https://youtu.be/w3_pJflTFk0